

Mr. Frederick M. Joyce
February 19, 1997
Page Two

Finally, you have asked for a draft interconnection agreement while at the same time "reserving [your] right to initiate...negotiations...with BellSouth." As a matter of courtesy, I am enclosing a specimen of the text of an interconnection agreement that BellSouth has executed with other CMRS providers. I must reiterate, however, that the Telecommunications Act of 1996 explicitly requires both BellSouth and Metrocall to negotiate in good faith the terms and conditions of interconnection arrangements pursuant to the Act. BellSouth is certainly willing to engage in such negotiation with Metrocall. It is impossible, however, for BellSouth to negotiate with a party who is unwilling to do so.

I hope that this clarifies BellSouth's positions with respect to the issues raised in your letter. Please do not hesitate to contact me if you have any questions concerning the foregoing. With best personal regards, I remain

Very truly yours,



David M. Falgoust

cc: Mr. Randy Ham



October 16, 1997

Mr. David M. Falgoust
General Attorney
BellSouth
Legal Department - Suite 4300
675 West Peachtree Street
Atlanta, Georgia 30375-0001

Dear Mr. Falgoust:

As you are aware, the Eighth Circuit Interconnection Decision in *Iowa Utilities Board v. FCC* confirmed that rules 51.703 and 51.709(b), with respect to CMRS providers, remain in full force and effect. Last February BellSouth maintained that Arch was obligated to pay for BellSouth's interconnection facilities (2/7/97 letter). However, at that time you also stated that "(w)hen the Eighth Circuit renders a decision on the pending appeal, BellSouth will reevaluate its position based on the Court's decision".

Three months after the Eighth Circuit Decision, BellSouth continues to charge Arch for the interconnection facilities BellSouth utilizes to transport its traffic to Arch's network. Arch respectfully requests that BellSouth immediately cease these charges and refund the payments Arch has been coerced to pay for the past year.

I sincerely hope that BellSouth sees the merit of Arch's request and emulates Cincinnati Bell Telephone, who, this month, credited Arch's interconnection accounts for past facility charges. See also Bell Atlantic's September 30 notification to cease charging for one-way paging trunks (attached). Please respond to this letter by October 24.

Sincerely,

A handwritten signature in dark ink, appearing to read "Dennis M. Doyle". The signature is fluid and cursive, with the first name "Dennis" being more prominent.

Dennis M. Doyle
Assistant Vice President Telecommunications

Attachment (2)

cc: P. H. Kuzia
R. Ham (BellSouth)

David M. Falgoust
General Attorney

BellSouth Telecommunications, Inc.
Legal Department - Suite 4300
675 West Peachtree Street
Atlanta, Georgia 30375-0001
Telephone: 404-335-0767
Facsimile: 404-614-4054

February 7, 1997

Mr. Dennis M. Doyle
Assistant Vice President Telecommunications
Arch Communications Group, Inc.
1800 West Park Drive, Suite 350
Westborough, Massachusetts 01581-3912

Re: Interconnection with BellSouth

Dear Mike:

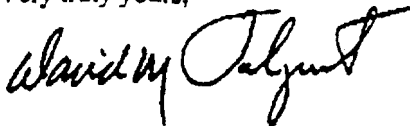
Thank you for coming to Atlanta to meet with Randy Ham and me on January 23, 1997. Your perspective on the issues related to LEC/CMRS interconnection was very useful to us. As we told you during our meeting, BellSouth has been examining its policy positions related to interconnection with paging carriers in the context of what we believe is a correct reading of the Telecommunications Act and the FCC's orders, and the uncertainty created by the pending Eighth Circuit appeal and stay.

As you know, BellSouth ceased charging for NNX establishment on October 7, 1996, pursuant to the directives of the FCC's Second Report & Order in Docket 96-98. With respect to recurring charges for Type 1 (DID) numbers, BellSouth will perform a cost study specific to CMRS arrangements and reprice such recurring charges based on the cost study. BellSouth proposes further to apply the new recurring charges retroactively to October 7, 1996.

BellSouth simply disagrees, however, with the assertion by Arch and some other paging carriers that Section 51.703 of the FCC's rules requires LECs to provide interconnection and transport facilities free to paging carriers. I explained BellSouth's position on this issue in detail in my letter to you dated January 9, 1997. To the extent that Arch relies on Sections 51.707 and 51.709 in support of its position, those rules, of course, remain "stayed" by the Eighth Circuit. When the Eighth Circuit renders a decision on the pending appeal, BellSouth will re-evaluate its position based on the Court's decision. Meanwhile, BellSouth maintains that Arch remains obligated to pay for facilities that BellSouth is providing to Arch pursuant to currently effective tariffs.

Please do not hesitate to contact me if you have any questions concerning the foregoing. With best personal regards, I remain

Very truly yours,



Bell Atlantic Network Services, Inc.
Two Bell Atlantic Plaza
1320 North Court House Road
Ninth Floor
Arlington, Virginia 22201

Carrier Services

September 30, 1997

Mr. Scott Hoyt
Arch Communications Inc.
1800 W. Park Drive
Westborough, MA. 01581

*cc: Mike Doyle
and Scott Hoyt*

To All Paging Carriers:

RE: One-Way Type 2 Paging Interconnection

Effective with the lifting of the Federal Court Stay on November 1, 1996, Bell Atlantic stopped billing usage charges associated with one-way Type 2 paging trunks. However, due to billing system limitations, the non-usage sensitive entrance facility charge continued to appear on the bills in states that had Local Transport Restructure (LTR).

This letter is to advise you that Bell Atlantic plans to cease billing recurring charges for entrance facilities for one-way Type 2 paging trunks and credit the relevant charges retroactive to November 1, 1996. This process will begin once the billing system modifications are completed in December of this year.

Type 2 entrance facilities are also used for non-local traffic, (i.e., interMTA calls) and to provide paging carriers a gateway to receive calls to their customers from other networks which transits Bell Atlantic's network.

Because there is a mixture of traffic types on these dedicated entrance facilities, Bell Atlantic plans to bill a percentage of the entrance facility charge. Based on our analysis of available traffic studies, Bell Atlantic has determined that 80% of the traffic delivered to paging carriers over dedicated interconnection entrance facilities is local telecommunications traffic (intraMTA traffic) and 20% is either interMTA traffic or traffic that does not originate on Bell Atlantic's network (e.g., transit traffic originated by third parties, such as IXC's, LEC's other than Bell Atlantic, CLEC's and other CMRS providers).²³

Effective October 1, 1997, Bell Atlantic will begin to bill paging providers 20% of the non-usage sensitive dedicated entrance facility charges as set forth in Bell Atlantic's access tariffs. This billing will be applied on a prospective basis only. It will not be applied retroactively to November 1, 1996.

If you have any questions concerning these changes please submit them to me in writing at:

1320 North Courthouse Road
9th Floor
Arlington, VA 22201

Sincerely,

Calvin Tuzman
Wireless Contract Manager

²³ 47 C.F.R. § 51.703 provides that "[a] LEC may not assess charges on any other telecommunications carrier for local telecommunications traffic that originates on the LEC's network." By implication, LECs may charge for traffic that is not local or does not originate on its network.

Appendix C

United States District Court

NORTHERN

DISTRICT OF

GEORGIA

BELLSOUTH TELECOMMUNICATIONS, INC.

SUMMONS IN A CIVIL ACTION

v.

CASE NUMBER: 1 98 CV-0293

AIRTOUCH PAGING, INC.

TO: (Name and Address of Defendant)

AirTouch Paging, Inc.
c/o Prentice Hall Corp. Systems, Inc.
Registered Agent
100 Peachtree Street
Atlanta, Georgia 30303

YOU ARE HEREBY SUMMONED and required to file with the Clerk of this Court and serve upon

PLAINTIFF'S ATTORNEY (Name and Address)

Fred A. Walters, Esq.
J. Henry Walker, Esq.
BellSouth Telecommunications, Inc.
675 W. Peachtree Street, Suite 4300
Atlanta, Georgia 30375

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

LUTHER D. THOMAS

JAN 30 1998

CLERK

DATE

Amity L. Smith

BY DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

JAN 30 1998

LUTHER D. THOMAS, Clerk
By: *Ala* Deputy Clerk

BELLSOUTH TELECOMMUNICATIONS, INC.,

Plaintiff,

v.

AIRTOUCH PAGING, INC.,

Defendant.

CIVIL ACTION FILE

NO. 98 CV-0293

COMPLAINT

Plaintiff BellSouth Telecommunications, Inc. ("BellSouth") states its Complaint against Defendant AirTouch Paging, Inc. ("AirTouch") as follows:

PARTIES, JURISDICTION, AND VENUE

1.

Plaintiff BellSouth is a Georgia corporation with its principal place of business in the metropolitan area of Atlanta, Georgia.

2.

Defendant is a Nevada corporation with its principal place of business in Dallas, Texas. Defendant, however, has substantial contacts with the State of Georgia, providing paging services to thousands of customers within the State and within this District. Defendant may be served through its registered agent, Prentice Hall Corp. Systems, Inc., 100 Peachtree Street, Atlanta, Georgia 30303.

3.

This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332 because there is complete diversity of citizenship among the parties, and the matter in controversy exceeds \$75,000.00, exclusive of interest and costs.

4.

Venue is proper in this District pursuant to 28 U.S.C. § 1391.

FACTUAL BACKGROUND

5.

Plaintiff repeats and incorporates by reference paragraphs 1-4, above, as if set forth fully herein.

6.

BellSouth provides telecommunications services to various types of customers throughout the southeastern part of the United States, including customers within the States of Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee. Certain of its services, including those at issue in this litigation, are provided pursuant to tariffs filed with and approved by state regulatory bodies, such as the Georgia, Florida and Louisiana Public Service Commissions.

7.

Defendant provides paging services to its customers in areas throughout BellSouth's services areas, including those within the States of Florida, Georgia and Louisiana. So that persons can reach Defendant's paging customers, Defendant obtains certain

facilities from Plaintiff, the rates, charges and conditions of service of which are governed by state tariff. For a period of time, Defendants used and paid for these services, as required by the provisions of the respective intrastate tariffs.

8.

As of January 1998, Defendant has refused to pay for telecommunications services provided by Plaintiff in the amount of \$584,391.64 as evidenced by the attached affidavit of Ann Cauley, a copy of which is attached hereto as Exhibit "A" and is incorporated herein by reference. The amount of money withheld by Defendant continues to increase.

FOR A FIRST CAUSE OF ACTION
(VIOLATION OF STATE LAW)

9.

The allegations and statements set forth in paragraphs 1-9, above, are incorporated by reference as if fully set forth herein.

10.

The rates, charges, terms and conditions which apply to Plaintiff's provision of telecommunications services and to Defendant's use of those services which are at issue in this litigation are set forth in tariffs approved by state regulatory agencies throughout Plaintiff's service areas.

11.

Those tariffs, once approved by the appropriate state regulatory agency, have the force and effect of law and courts

have so-held as to the enforceability of utility tariffs so approved.

12.

Defendants have not contested Plaintiff's computation of these tariffed rates and presentation of bills for the services consumed by Defendant. Rather, Defendant continues to use these services and refuses to pay for them.

13.

Plaintiff, therefore, is entitled to recover damages flowing from Defendant's actions in violation of these state tariffs in the amount of \$584,391.64, as set forth in Exhibit A.

FOR A SECOND CAUSE OF ACTION
(BREACH OF CONTRACT)

14.

The allegations and statements set forth in paragraphs 1-14 above are incorporated by reference as if fully set forth herein.

15.

The rates, charges, terms and conditions related to the services at issue in this litigation are found in state tariffs approved by the regulatory agencies, inter alia, in Georgia, Florida and Louisiana. Those tariffs constitute the contract between a utility and its customers.

16.

Under the provisions of these contracts, Defendants is required to pay for services it orders and consumes. Defendant, however, refuses to pay for services it has received and is,

therefore, in material breach of its contractual duties to Plaintiff.

17.

Plaintiff, then, is entitled to recover damages flowing from that breach in the amount of \$584,391.64, as set forth in Exhibit A.

FOR A THIRD CAUSE OF ACTION
(COLLECTION OF AN OPEN ACCOUNT)

18.

The allegations and statements set forth in paragraphs 1-18 above are incorporated by reference as if fully set forth herein.

19.


Defendant is indebted to Plaintiff on Defendant's open account in the amount of \$584,391.64, as evidenced by the affidavit and summary account statement both of which are attached hereto as Exhibit A and incorporated herein by reference.

WHEREFORE, BellSouth Telecommunications, Inc. respectfully prays that:

- (a) it be awarded damages incurred as set forth herein;
- (b) it be allowed to recover the costs and disbursements of this action;
- (c) it be awarded applicable interest and any other charges as allowed by law; and

(d) It be awarded such other relief as the Court deems just and proper.

Respectfully submitted


Fred A. Walters
Georgia Bar No. 735525

J. Henry Walker
Georgia Bar No. 732254

Suite 4300
675 West Peachtree Street, NE
Atlanta, Georgia 30375
(404) 335-0724

OF COUNSEL:

David M. Falgoust
Georgia Bar No. 254474
Suite 4300
675 West Peachtree Street, N.E.
Atlanta, Georgia 30375
(404) 335-0767

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

BELLSOUTH TELECOMMUNICATIONS, INC.,)

Plaintiff,)

v.)

AIRTOUCH PAGING, INC.,)

Defendant.)

CIVIL ACTION FILE

NO. _____

AFFIDAVIT AND STATEMENT OF ACCOUNT

STATE OF GEORGIA

COUNTY OF FULTON

Personally appeared before the undersigned notary public duly authorized to administer oaths, Buena Ann Cauley, who being duly sworn deposes and says:

1. That her name is Buena Ann Cauley, that she is over the age of twenty one years and is of sound mind;

2. That she is employed by BellSouth Telecommunications (BST) as its Manager in the "wireless service center" with responsibilities for the billing and collection of charges for services rendered to AirTouch Paging, among others.

3. That in her capacity, she directed her subordinates to prepare, from the business records of BellSouth Telecommunications, a summary of all billing records related to the provision of tariffed services to AirTouch Paging.

EXHIBIT A

4. That in response to her request the attached summary was prepared and that she compared that compilation with the actual bills contained in BST's files and that they, in total, accurately reflect the amount of money owed to BellSouth Telecommunications by AirTouch Paging.

5. That based upon her review of the Company's records maintained in the normal course of business and as reflected on the attached summary, AirTouch Paging owes to BellSouth Telecommunications, Inc. the sum of \$584,391.64 as of the month and year reflected on said summary.

FURTHER AFFIANT SAITH NOT.

Buena Ann Cauley
Buena Ann Cauley

Subscribed and sworn to before me
this 28th day of January, 1998

Theresa D. Martin
Notary Public
My Commission Expires: 12/4/98



AIR TOUCH PAGING
SUMMARY OF ACCOUNTS

<u>ACCOUNT NUMBER</u>	<u>BILLING PERIOD</u>	<u>AMOUNT UNPAID</u>
404 M-87-0187	1/98	230,723.02
704 M01-1117	12/97	34.31 CR
407 690-8000	12/97	19,707.42
954 259-0000	12/97	411.38
954 269-0000	12/97	446.38
954 576-5000	12/97	78.94 CR
561 998-8780	1/98	13,237.78
352 372-3146	12/97	64.30
352 412-0000	12/97	1,863.65
352 413-0000	12/97	5,330.48
352 M77-5867	12/97	22,573.56
352 M79 - 5604	1/98	16,006.14
561 458-0000	1/98	5,184.63
305 W96-6412	1/98	17,138.84
305 656-0000	12/97	1,324.41
954 V96-5308	1/98	19,904.92
904 396-2542	12/97	7,023.52
305 W64-5631	1/98	61,027.10
305 W58-8372	12/97	21,234.64
706 V03-2437	12/97	93,871.33

<u>ACCOUNT NUMBER</u>	<u>BILLING PERIOD</u>	<u>AMOUNT UNPAID</u>
305 678-0000	1/98	1,615.34
904 399-7000	12/97	16,075.89
904 869-0000	12/97	11,000.93
904 825-9200	12/97	8,314.68
904 918-0000	12/97	1,047.88
904 920-0000	1/98	125.79 CR
904 829-0003	12/97	36.79
770 M87-7183	1/98	7,639.50
904 919-0000	1/98	1,587.13
TOTAL AMOUNT OWED		<hr/> 5584,391.64

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

BELLSOUTH TELECOMMUNICATIONS, INC.,

Plaintiff,

v.

AIRTOUCH PAGING, INC.,

Defendant.

CIVIL ACTION FILE

NO. _____

VERIFICATION

Personally appeared before the undersigned notary public duly authorized to administer oaths, Buena Ann Cauley, who being duly sworn deposes and says:

1. That her name is Buena Ann Cauley, that she is over the age of twenty-one years and is of sound mind;
2. That she has read the attached Complaint and that the allegations therein are true and correct.

Buena Ann Cauley
Buena Ann Cauley

Sworn to and subscribed before me
this 30th day of January, 1998

Vanessa D. Martin
Notary Public

My Commission Expires 11/4/98



My Commission Expires
December 4, 1998

Appendix D

COM/JXX/sid *

Mailed
MAY 23 1997

Decision 97-05-095 May 21, 1997

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Cook Telecom, Inc.,)
for arbitration pursuant to Section)
252 of the Federal Telecommunications)
Act of 1996 to establish an)
interconnection agreement with)
Pacific Bell.)

Application 97-02-003
(Filed February 3, 1997)

David M. Wilson and David A. Simpson,
Attorneys at Law, for Cook Telecom,
Inc., applicant.

Thomas J. Ballo and David Discher,
Attorneys at Law, for Pacific Bell,
respondent.

Karen Jones, Marc Kolb and Mike Watson, for
the Commission's Telecommunications
Division.

INTERIM OPINION

1. Summary

We reject the Arbitrated Interconnection Agreement between Cook Telecom, Inc. (Cook or applicant) and Pacific Bell (Pacific or respondent) because it fails to provide for compensation to Cook for the costs that Cook incurs in terminating calls to its paging customers. Accordingly, the agreement fails to comply with Sections 251(b)(5) and 252(d)(2)(A)(i) of the Telecommunications Act of 1996 (Act) and our Rules Governing Filings Made Pursuant to the Telecommunications Act of 1996, Resolution ALJ-168 (Rules). We further order the parties to file an agreement in conformance with this decision.

2. Background

On February 3, 1997, Cook filed a timely application for arbitration of terms, conditions and rates for interconnection with Pacific. Pacific filed a timely response on February 28, 1997.

Arbitration hearings were held on March 12 and 13, 1997. Opening briefs were filed and served on March 24, 1997, and reply briefs were filed and served on March 31, 1997.

An Arbitrator's Report was filed and served on April 21, 1997. On April 28, 1997, parties filed and served a conformed agreement in compliance with the Arbitrator's Report. On May 2, 1997, parties filed and served comments on the Arbitrator's Report and the conformed agreement.

3. Arbitrated Agreement

The threshold issue is whether applicant is entitled to transport and termination compensation. We conclude, contrary to the Arbitrator's Report, that applicant is so entitled pursuant to the Act.

Under Rule 4.2.4, we may reject an arbitrated agreement or portions thereof that do not meet the requirements of Section 251 of the Act, regulations prescribed under Section 251 by the Federal Communications Commission (FCC), or the pricing standards set forth in Section 252(d) of the Act. Pursuant to Section 252(e)(3) of the Act, we may also reject agreements or portions thereof which violate other requirements of the Commission. For the reasons set forth below, we reject the arbitrated agreement filed by the parties and order the parties to file an agreement in compliance with this decision.

3.1 Act and FCC Regulations

Respondent has a duty under Section 251 "to establish reciprocal compensation arrangements for the transport and termination of telecommunications." (Section 251(b)(5).) Section 252(d) further provides that a State Commission shall not consider terms and conditions for reciprocal compensation just and reasonable unless the "terms and conditions provide for the mutual and reciprocal recovery" of costs "by each carrier." (Section 252(d)(2)(A)(i).)

Applicant is a one-way paging company. Applicant does not originate traffic for termination on respondent's network. Respondent argues that because traffic flows only one-way -- i.e., respondent always terminates traffic on the applicant's network -- and respondent never terminates traffic on its network from the applicant, applicant is not entitled to compensation because such compensation is not "mutual" or "reciprocal" within the meaning of Section 251(b)(5) of the Act.

We disagree. Under Section 251(a) of the Act, respondent has a duty to interconnect with applicant who otherwise qualifies as a "telecommunications carrier" providing "telecommunications service" within the meaning of the Act. (47 U.S.C. §§3(44) & (46)). In fulfilling this duty, respondent has an obligation under Section 251(b)(5) "to establish reciprocal compensation arrangements for the transport and termination of telecommunications." Under Section 252(d)(2) the state is to ensure that "terms and conditions for reciprocal compensation" "provide for the mutual and reciprocal recovery by each carrier of costs associated with the transport and termination on each carrier's network facilities of calls that originate on the network facilities of the other carrier." (emph. added).

In creating these duties, Congress did not carve out an exception with respect to those telecommunications carriers providing a telecommunications service that consisted of one-way paging. To the contrary, Congress broadly required local exchange carriers to interconnect with all providers of communication services meeting the definitional sections of the Act, and to compensate each carrier on reasonable terms and conditions for the costs that it incurs in terminating calls to the called party that originate on the local exchange carrier's network.

Respondent does not dispute that there are costs incurred by applicant in terminating calls to applicant's customers. We do not think that Congress intended a result that, on the one hand,

would require respondent to compensate a carrier providing two-way wireless service for the costs that the carrier incurs, but on the other hand, allow respondent to deny compensation to a carrier providing one-way wireless service for the costs that such carrier incurs. To be sure, when respondent terminates calls on its network from cellular and other wireless providers, respondent is compensated for the costs that it incurs in terminating such traffic. We believe that Congress intended that each and every carrier should be compensated for the costs that it incurs in terminating traffic, and did not intend to deny a class of carriers -- in this case, one-way paging -- the right of compensation simply because there is no traffic terminated on the local exchange carrier's network. We fail to discern any public policy that Congress intended to further by denying such compensation to one-way paging carriers when, at the same time, Congress went to such great lengths to grant such carriers the right to interconnect and compete on an equal footing under the Act. We believe that Congress simply recognized that historically, while local exchange carriers have been compensated by competitors for terminating competitors' traffic, the local exchange carrier should reciprocate by compensating competitors for terminating the local exchange carrier's traffic.

Our construction of the Act is consistent with that adopted by the Federal Communications Commission ("FCC"). In Local Competition Provisions of the 1996 Telecommunications Act, First Report and Order, 11 FCC Rcd 15499 (Aug.1, 1996), the FCC promulgated regulations pursuant to the Act that required all LECs [local exchange carriers] to enter into reciprocal compensation arrangements with all CMRS [commercial mobile radio service] providers, including paging providers, for the transport and termination of traffic." Id. at para. 1008. The FCC was careful to expressly specify, and clarify any perceived ambiguity, that paging providers are included in the class of CMRS providers'

entitled to compensation for terminating traffic. See also id. at para. 1092 ("... paging providers, as telecommunications carriers, are entitled to mutual compensation for the transport and termination of local traffic...") and para. 1093 ("we direct states, when arbitrating disputes under Section 252(d)(2), to establish rates for the termination of traffic by paging providers based on forward-looking economic costs of such termination to the paging provider.") The FCC's policies are consistent with our interpretation of the Act that Congress intended to compensate all carriers, including one-way paging carriers, for terminating traffic.

3.2 Termination and Transport

Respondent next claims that applicant does not transport and terminate traffic, and hence does not qualify for compensation under the Act. We disagree. As discussed above, paging carriers qualify as telecommunication carriers providing telecommunications services within the meaning of the Act. When a caller dials a paging customer, the call is initially transported on the local exchange carrier's network, and then handed off to the paging carrier for ultimate delivery to the called party. As explained by applicant, dedicated trunks pick up land-to-pager calls at [respondent's] tandem offices. These facilities then carry such calls to Cook's terminals. Exhibit 1 (Cook Testimony). In this arbitration, both parties agreed that similar dedicated trunks are used to connect respondent's end-offices to applicant's paging terminals. We agree with applicant that it provides termination and hence applicant should be compensated regardless of whether the interconnection occurs at an end-office or tandem. However, as discussed below, we disagree with applicant that it is entitled to receive compensation for any costs incurred beyond the paging

terminal. Cook is only entitled to compensation for its paging-terminal costs, which, for the purposes of this arbitration, we will consider an "equivalent facility" to an end office switch.¹

From the evidence in this case, Cook provides no transport because Pacific Bell provides the interoffice trunking facilities between its end office and/or tandem and Cook's paging terminal. Therefore, Cook is not entitled to compensation for transport between respondent's end-office or tandem and applicant's paging terminal.² Although Cook is not entitled to compensation for transport, neither will it be charged. We note that pursuant to a stipulation discussed below, Pacific will not charge for the facilities it uses to transport calls to Cook because Cook is awarded termination charges in this order.

3.3 Discrimination

Section 251(c)(2) requires nondiscriminatory interconnection for transmission and routing of telephone exchange service and exchange access. Applicant does not provide telephone exchange service or exchange access. Therefore, the nondiscrimination provision of this subsection does not control.

Section 252(i) further requires that respondent:

"...shall make available any interconnection, service, or network element provided under an agreement approved under this section to which it is a party to any other requesting telecommunications carrier upon the same terms and conditions as those provided in the agreement."

Applicant asserts this obligates respondent to offer applicant the same rates paid to Pac-West Telecom, Inc. (Pac-West),

¹ D.92-01-016, 43 CPUC2d 3, 15 (1992); cf. 47 C.F.R. § 51.701(d).

² However, to the extent Cook owns facilities that connect from respondent's end-offices or tandems to Cook's paging terminals, applicant is entitled to compensation for transport.

as incorporated in the agreement advocated by applicant. We affirm the Arbitrator's findings that this is incorrect. The Pac-West agreement was not approved under the Act. Moreover, applicant is not a competitive local carrier as is Pac-West, and applicant's service is not the same as Pac-West's service. Also, there is no evidence on the record of this proceeding for us to determine whether the rates adopted in the Pac-West agreement are based on cost.

3.4 Public Policy

Congress provided under the Act that local exchange carriers interconnect with, and pay compensation for, the termination of traffic, to all telecommunications carriers that provide telecommunications services. In this case, applicant incurs costs for terminating traffic that originates on the respondent's network. No public policy is served by denying applicant the right to be compensated by the respondent (with which applicant interconnects) on just and reasonable terms for the costs that applicant incurs in transporting and terminating traffic.

3.5. Compensation Rates

Pursuant to Section 252(d)(2)(A), terms and conditions for reciprocal compensation of transport and termination must be based on a reasonable approximation of the additional costs of termination. Having reviewed the cost information submitted on the record, we do not feel confident in establishing final rates at this time. However, we are prepared to establish interim rates.

Cook's witness, Trout, introduced a cost study which purportedly arrived at a forward-looking cost of 2.4 cents per page. Trout's study assumed a network designed to serve 50,000 customers that would each generate 70 pages per month. His study included the costs for the paging terminal, for the paging transmitters, and for the facilities linking them together. Cook requests the termination rate that Pacific pays to Pac-West Telecom